

**HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE C.V. NAGARJUNA REDDY**

WRIT APPEAL No. 1160 OF 2006

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Between:

S. Lakshminarasamma & others

..... Appellants

AND

Ungarala Ramanjaneyulu & others

.....Respondents

:: J U D G M E N T ::

Counsel for the appellants : Shri O. Manohar Reddy

Counsel for respondent No.1 : Shri P. Roy Reddy

Counsel for respondent Nos.2 to 4: Assistant Government
Pleader

for Revenue

Counsel for respondent No.5 : Shri A. Rajashekar Reddy
Assistant Solicitor

General

Dated: 02.11.2006

Per G.S.SINGHVI, CJ

This appeal is directed against order dated 07.09.2006 passed by the learned Single Judge, whereby he disposed of the writ petition filed by respondent No.1, Ungarala Ramanjaneyulu by giving the following direction:

“The third respondent may inspect the lands and if it is found that the respondents 4 and 5 are still carrying on aquaculture/prawn culture/pisi culture in their agricultural lands in Survey No.66/3, the third respondent may take appropriate action for removing/demolishing aquaculture/prawn culture/ pisi culture tanks immediately, after issuing notice to respondents 4 and 5.”

One of the grounds on which the appellants have questioned the aforementioned direction is that they were not given notice and opportunity of hearing. According to the appellants, the omission of the learned Single Judge to issue notice and afford them opportunity to contest the writ petition on factual as well as legal grounds has seriously prejudiced their cause.

We have heard Shri O. Manohar Reddy, Shri P. Roy Reddy, learned counsel for respondent No.1 (writ petitioner) and learned Assistant Government Pleader for Revenue.

Shri Manohar Reddy pointed out that in the purported compliance of the direction given by the learned Single Judge, Mandal Revenue Officer, Kalla, without making any enquiry into the matter, issued notice dated 16.10.2006 requiring his clients to stop prawn/fish culture and this is how the cause of his clients has been prejudiced.

Shri P. Roy Reddy candidly stated that the writ petition filed by his client was disposed of by the learned Single Judge at the threshold without issuing notice to the respondents.

In our opinion, the writ petition filed by respondent No.1 could not have been disposed of without giving notice and opportunity to the appellants herein to explain their position.

We are further of the view that failure of the learned Single Judge to issue notice to the appellants has resulted in substantial failure of justice.

Hence, the appeal is allowed. The order of the learned Single Judge is set aside. The writ petition shall now be listed before the Single Bench, as per roster, for fresh adjudication.

The appellants, who are non-petitioners No.4 and 5 in the writ petition, should file their counter affidavit within three weeks. The petitioner (respondent No.1 herein) may file rejoinder affidavit within next two weeks. Thereafter, the case be posted before the Single Bench.

G.S.SINGHVI, CJ

C.V. NAGARJUNA REDDY, J

02.11.2006

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